

## Message Text

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ACTION IO-10

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TO SECSTATE WASHDC IMMEDIATE 7965

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E.O. 11652: N/A

TAGS: UN PFOR SS

SUBJ: FOURTH COMMITTEE: SPANISH SHARA

FOLLOWING IS TEXT OF MOROCCAN PREPARED DRAFT RES ON SPANISH SAHARA, AND MOROCCAN MISSION TRANSLATION IN ENGLISH. ACCORDING TO MOROCCANS, TEXT HAS NOT BEEN SHOWN TO AFRICAN GROUP OR "NON-ALIGNED". WE EXPECT RES TO BE TABLED IN FOURTH COMMITTEE NOV. 29, AND VOTED ON IN FOURTH COMMITTEE DEC. 2.

L'S ASSEMBLEE GENERALE,

RAPPELANT SA RESOLUTION 1514(XV) DU 14 DECEMBRE 1960,

RAPPELANT EGALEMENT SES RESOLUTIONS 2072(XX) DU 16 DECEMBRE 1965, 2229 (XXI) DU 20 DECEMBRE 1966, 2354(XXII) DU 19 DECEMBRE 1967, 2428(XXIII) DU 18 DECEMBRE 1968, 2591(XXIV) DU 16 DECEMBRE 1969, 2711(XXV) DU 14 DECEMBRE 1970, 2983 (XXVII) DU 14 DECEMBRE 1972 ET 3162(XXVIII) DU 14 DECEMBRE 1973,

GRAVEMENT PREOCCUPEE PAR LA SITUATION NOUVELLE QUI S'EST INSTAUREE AU SHARA OCCIDENTAL DU FAIT, NOTAMMENT, DES AGISSEMENTS DE LA PUISSANCE ADMINISTRANTE,  
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CONSIDERANT QUE LA PERSISTANCE D'UNE SITUATION COLONIALE  
AU SHARA OCCIDENTAL COMPROMET LA STABILITE ET L'HARMONIE DANS  
LA REGION DU NORD-OUEST DE L'AFRIQUE,

TENANT COMPTE DES DECLARATIONS FAITES DEVANT L'ASSEMBLEE  
GENERALE, LES 1ER ET 2 OCTOBRE 1974, PAR LES MINISTRES  
DES AFFAIRES ETRANGERES DU ROYAUME DU MAROC ET DE LA  
REPUBLIQUE ISLAMIQUE DE MAURITANIE AU SUJET DU SHARA,

PRENANT NOTE DES DECLARATIONS FAITES DEVANT LA QUATRIEME  
COMMISSION PAR LES REPRESENTANTS DU MAROC ET DE LA MAURITANIE,  
DECLARATIONS DANS LESQUELLES LES DEUX PAYS SE SONT RECONNUS  
MUTUELLEMENT INTERESSES AU DEVENIR DE CES TERRITOIRES,

AYANT ENTENDU LA DECLARATION DU REPRESENTANT DE L'ESPAGNE,

CONSTANT QUE DES DIFFICULTES JURIDIQUES ONT SURGI AU COURS  
DE CE DEBAT RESULTANT DES CONTROVERSES INTERVENUES SUR LE STATUT  
DUDIT TERRITOIRE AU MOMENT DE SA COLONISATION PAR L'ESPAGNE,

CONSIDERANT DES LORS QU'IL EST HAUTEMENT SOUHAITABLE QUE  
L'ASSEMBLEE GENERALE OBTIENNE, POUR POURSUIVRE L'EXAMEN DE  
CETTE QUESTION, UN AVIS CONSULTATIF SUR CERTAINS ASPECTS  
JURIDIQUES IMPORTANTS DU PROBLEME,

PRENANT NOTE DE L'ARTICLE 96 DE LA CHARTE DES NATIONS UNIES  
ET DE L'ARTICLE 65 DU STATUT DE LA COUR INTERNATIONALE DE  
JUSTICE,

1-DECIDE DE SOUMETTRE LES QUESTIONS SUIVANTES A LA COUR  
INTERNATIONALE DE JUSTICE EN LA PRIANT DE DONNER UN AVIS  
CONSULTATIF:

I-LE SHARA OCCIDENTAL (RIO DE ORO ET SAKIET EL HAMRA)  
ETAIT-IL, AU MOMENT DE LA COLONISATION PAR L'ESPAGNE,  
UN TERRITOIRE SANS MAITRE (TERRA NULLIUS)?

SI LA REPONSE A LA QUESTION EST NEGATIVE,

II-QUELS ETAIENT LES LIENS JURIDIQUES DE CE TERRITOIRE  
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AVEC LE ROYAUME DU MAROC ET L'ENSEMBLE MAURITANIEN?

2-DEMANDE A L'ESPAGNE, EN TANT QUE PUISSANCE ADMINIS-  
TRANTE, AU MAROC ET A LA MAURITANIE, EN TANT QUE PRINCIPALES  
PARTIES CONCERNEES, DE SOUMETTRE A LA COUR TOUS RENE-  
EIGNEMENTS OU DOCUMENTS

3-PRIE LE SECRETAIRE GENERAL DE JOINDRE A LA PRESENTE

RESOLUTION, LORWQU'IL TRANSMETTRA A LA COUR INTERNATIONALE  
DU JUSTICE, LES DOCUMENTS QUI LUI SERONT REMIS A CET EFFET  
PAR LES PARTIES MENTIONNEES AU PARAGRAPHE 2 CI-DESSUS;

4. INVITE INSTAMMENT LA PUISSANCE ADMINISTRANTE A  
SURSEOIR A L'ORGANISATION DU REFERENDUM ENVISAGE PAR ELLE,  
AU SHARA OCCIDENTAL, TANT QUE L'ASSEMBLEE GENERALE NE SE  
SERA PAS PRONONCEE SUR LA POLITQUE A POURSUIVRE PUR ACCELERER  
LE PROCESSUS DE DECOLONISATION DUDIT TERRITOIRE, DANS LES  
MEILLEURES CONDITIONS, A LA LUMIERE DE L'AVIS CONSULTATIF  
QUI SERA DONNE PAR LA COUR INTERNATIONALE DE JUSTICE;

5-REITERE SON INVITATION A TOUS LES ETATS A RESPECTER LES  
RESOLUTIONS DE L'ASSEMBLEE GENERALE SUR LES ACTIVITES DES  
INTERETS ETRANGERS, ECONOMIQUES ET FINANCIERS ET A S'ABSTENIR  
D'AIDER, PAR DES INVESTISSEMENTS OUR PAR UNE POLITQUE  
D'IMMIGRATION, AU MAINTIEN DE LA SITUATION COLONIALE DANS  
LEDIT TERRITOIRE;

6- DEMANDE AU COMITE SPECIAL DE POURSUIVRE L'EXAMEN  
DE LA SITUATION DANS LE TERRITORE ET DE FAIRE RAPPORT A  
CE SUJET A L'ASSEMBLEE GENERALE LORS DE SA TENTIEME  
SESSION.

THE GENERAL ASSEMBLY,

RECALLING ITS RESOLUTION 1514 (XV) OF 14 DECEMBER 1960

RECALLING ALSO ITS RESOLUTIONS 2072(XX) OF 16 DECEMBER  
1965 2229(XXI) OF 20 DECEMBER 1966, 2354(XXII) OF 19 DECEMBER  
1967, 2428(XXIII) OF 18 DECEMBER 1968, 2591(XXIV) OF 16 DECEMBER  
1969, 2711(XXV) OF 14 DECEMBER 1970, 2983(XXVII) OF 14 DECEMBER  
1972 AND 3162 (XXVIII) OF 14 DECEMBER 1973,  
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CONSIDERING THAT THE PERSISTENCE OF A COLONIAL SITUATION  
IN WESTERN SHARA, JEOPARDIZES THE STABILITY FNA HARMONY IN THE NORTH-  
WEST AFRICAN REGION,

TAKING INTO ACCOUNT THE STATEMENES MADE IN THE GENERAL  
ASSEMBLY, ON 1, 2 OCTOBER 1974, BY THE MINISTERS OF FOREIGN AFFAIRS  
OF THE KINGDOM OF MOROCCO, AND THE ISLAMIC REPUBLIC OF  
MAURITANIA,

TAKING NOTE OF THE STATEMENT MADE IN THE FOURTH COMMITTEE  
BY THE REPRESENTATIVES OF MOROCCO AND MAURITANIA, IN WHICH THESE  
TWO COUNTRIES ACKNOWLEDGED THAT THEY WERE BOTH INTERESTED IN THE  
FUTURE OF THIS TERRITORY,

HAVING HEARD THE STATEMENT BY THE REPRESENTATIVE OF SPAIN,

NOTING THAT DURING THE DISCUSSION A LEGAL CONTROVERSY  
AROSE OVER THE STATUS OF THE SAID TERRITORY AT THE TIME OF ITS  
OCCUPATION BY SPAIN,

CONSIDERING THEREFORE THAT FOR FUTURE DISCUSSION IT IS  
HIGHLY DESIRABLE THAT THE GENERAL ASSEMBLY SEEK A CONSULTATIVE  
OPINION ON SOME IMPORTANT LEGAL ASPECTS OF THE PROBLEM,

BEARING IN MIND ARTICLE 93 OF THE CHARTER OF THE UNITED  
NATIONS, AND ARTICLE 66 OF THE STATUS OF THE INTERNATIONAL  
COURT OF JUSTICE,

1-DECIDES TO SEEK A CONSULTATIVE OPINION FROM THE INTERNATIONAL  
COURT OF JUSTICE, ON THE FOLLOWING QUESTIONS:

I-WAS THE ESTERN SHARA (RIO DE ORO AND SAKIET EL HAMRA)  
RES NULLIUS AT THE TIME OF OCCUPATION BY SPAIN?

IF THE ANSWER TO THE FIRST QUESTION WAS IN THE NEGATIVE,

II--WHAT LEGAL TIES EXISTED BETWEEN THIS TERRITORY AND BOTH  
THE KINGDOM OF MOROCCO AND MAURITANIA AS A WHOLE?

2-CALLS UPON SPAIN, IN ITS CAPACITY AS ADMINISTERING POWER  
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AS WELL AS MOROCCO AND MAURITANIA, IN THEIR CAPACITY AS  
INTERESTED PARTIES, TO SUBMIT TO THE COURT ALL SUCH INFORMATION  
AND DOCUMENT AS MAY BE NEEDED TO CLAIIFY THESE QUESTIONS;

3-REQUESTS THE SECRETARY GENERAL, WHEN HE TRANSMITS THIS  
RESOLUTION TO THE INTERNATIONAL COURT OF JUSTICE, TO ATTACH  
TO IT THE DOCUMENTS PRESENTED TO HIM FOR THIS PURPOSE BY THE  
PARTIES REFERRED TO IN PARAGRAPH  
2 ABOVE;

4-URGES THE ADMINISTERING POWER TO POSTPONE THE REFE-  
RENDUM IT HAD CONTEMPLATED IN WESTERN SAHARA UNTIL THE GENERAL  
ASSEMBLY DECIDES ON THE POLICY TO BE FOLLOWED IN ORDER TO  
ACCELERATE THE DECOLONIZATION PROCESS IN THIS TERRITORY,  
IN THE BEST POSSIBLE CONDITION, IN THE LIGHT OF THE CONSULTATIVE  
OPINION GIVEN BY THE INTERNATIONAL COURT OF JUSTICE;

5-REITERATES ITS INVITATION TO ALL STATES TO OBSERVE THE  
RESOLUTIONS OF THE GENERAL ASSEMBLY REGARDING THE ACTIVITIES OF  
FOREIGN ECONOMIC AND FINANCIAL INTERESTS, AND TO ABSTAIN FROM  
CONTRIBUTING BY THEIR INVESTMENTS OR IMMIGRATION POLICY TO THE  
MAINTENANCE OF A COLONIAL SITUATION IN THIS TERRITORY;

6-REQUESTS THE SPECIAL COMMITTEE TO KEEP THE SITUATION  
IN THIS TERRITORY UNDER VIEW, AND REPORT TO THE GENERAL  
ASSEMBLY AT ITS THIRTIETH SESSION END TEXTS  
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## Message Attributes

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